bless our friends in Taiwan, including President Lee Teng-hui, Vice President Lien Chan and Taipei's Foreign Minister, Dr. Jason Hu, who have done an excellent job in leading Taiwan down the road of democracy and prosperity. Mr. President, I ask that you join me and our colleagues in congratulating the Republic of China's freedom on its 87th Anniversary National Day. I look forward to celebrating this historic event annually for many, many years to come.●

NATIONAL SALVAGE MOTOR VEHICLE PROTECTION ACT

● Mr. GORTON. Mr. President, I rise today in support of the substitute amendment to S. 852, the National Salvage Motor Vehicle Protection Act of 1998.

The substitute makes a number of changes to the Committee-passed bill. While not as far reaching as some would like, I believe that the changes improve a measure that has always had a very laudable intent, but which was criticized nevertheless by attorneys general and consumer groups for preempting, in some instances, more favorable state law and not providing consumers with enough information about a vehicles' history.

As a former Attorney General, I was particularly sensitive to these criticisms, and last Fall I placed a hold on the measure with the expectation of facilitating a consensus between the bill's supporters, the attorneys general, and various consumer advocate groups. Regrettably, a consensus of legislation was not to be had. While the changes in the amendment are generally intended to address concerns raised by the attorneys general and, to some extent, consumer advocates, neither of these groups has endorsed this measure. I removed my hold on the amendment despite this, however, because there is a consensus, of which I am a part, on the need for federal legislation regarding salvage and rebuilt vehicles. The bill, as amended, is not perfect. But as my months of trying to broker an agreement revealed, ''perfect,'' even if defined to mean the best interest of consumers, is a subjective term. S. 852, as amended, is, in my view, and in that of over 50 co-sponsors, better than the status quo.

I remain troubled that the attorneys general and some consumer advocate groups do not agree. I am also somewhat baffled by the seemingly studied misconstruction of the bill, and my amendment to it by some who continue to oppose it.

Let me explain the changes in the amendment to S. 852. In response to complaints that S. 852 set too high a damage threshold for designating a vehicle as ''salvage,'' the amendment lowers the threshold from 80% to the lower of 75% or the percentage threshold in a state as of the date of enactment. Seventy-five percent is the threshold recommended by the task force created by the Anti-Car Theft Act of 1992, on whose work this legislation is based. Industry defenders of the higher threshold argued that lowering it would hurt, not help, consumers because it would devalue vehicles even when there is no legitimate safety-related reason for mandating the disclosure of prior damage. I understand their point, but don't agree. Yes, there is some threshold at which mandatory labeling, and the bureaucratic burden that attends it, is more costly than beneficial for both buyers and sellers, but I do not believe we have come close to that turning point.

The attorneys general's concern that S. 852 did not provide for sufficient disclosure applied not only to the percent of damage threshold, but also to limited scope of the vehicles covered by the bill. S. 852 proposed to permit the ''salvage vehicle'' label to attach only to vehicles less than seven years old or with more than $7500. While states were free to use any other label they chose for all vehicles, including older vehicles, state attorneys general wanted to be able to use the term ''salvage'' to describe older vehicles because it is the term most commonly used today to advise of prior damage. The amendment to S. 852 permits states to do this, and explicitly provides that states can use the term ''older model salvage vehicle'' to label older vehicles.

Complaints about the mandatory nature of S. 852 ran the gamut. Some critics of S. 852, including the Department of Transportation, objected to the fact that states were not obligated to comply with the Act, arguing that states could opt out and become regional title washing capitals. Others complained that the bill was too prescriptive, and did not allow states (the majority of which, until now, do not appear to have adopted very consumer-friendly laws) to set the standards for labeling and disclosure. Rather than refight the battle that led the House to conclude that a mandate would be unconstitutional, and because I was unable to persuade anyone to agree that we should use a big stick as opposed to a carrot approach, the amendment to S. 852 does not make the labeling system mandatory, but incorporates a provision to address concerns that opt-out states will become title-washing capitals. The amendment to S. 852 makes it a violation of the Act to move vehicles, or vehicle titles, across state lines for the purpose of avoiding the requirements in the Act.

Another minor modification to S. 852 corrects what I believe was an oversight in S. 852, and makes it a violation of the Act not to comply with the labeling and disclosure requirements for ''flood vehicles.''

Another modification made to S. 852 clarifies that states that choose to abide by the provisions of the Act must carry over not only the ''salvage vehicle,'' ''nonrepairable vehicle,'' and ''flood vehicle'' labels on titles, but also any other disclosure that states prescribe. This concept was contained in S. 852, but the language was unclear. The legislation does not restrict states from labeling a car with any term, and prescribing treatment of a car so labeled with any term, other than the very limited list of terms used in the bill. In other words, a state that accepts federal funds for the national motor vehicle identification number database, and that does not specifically state on its titles that it is not complying with the federal titling standards, must use the definition of ''salvage vehicle'' and ''nonrepairable vehicle'' prescribed in the bill. However, S. 852 permits that state to label the same vehicle with any other term it chooses and imposes any restrictions attendant to the other label. The amendment clarifies that states that chose to use the national labels, including those for ''salvage vehicle'' and ''nonrepairable vehicle,'' must not only carry over these labels from other states, but must also carry over any other labels another state chooses to affix, and specify the state that so labeled the vehicle.

Other modifications specifically permit state attorneys general to bring actions on behalf of individuals for violations of the Act, and clarify that the Act in no way affects individuals' ability to bring private rights of action. In response to concerns that S. 852 preempted state causes of action and created a sole remedy for violations relating to title labeling and disclosure, the amendment specifically provides that the Act does not preclude any private right of action available under state law. This provision was intended to provide assurances that nothing in the Act restricts individuals, or attorneys general, from pursuing any claims under state law, such as claims based on violations of consumer protection laws, unfair trade practices, or failures to disclose the material terms of a contract. Curiously, the inclusion of this provision, designed to allay concerns about preemption, appears to have unreasonable stirred them. Some appear to have drawn the illogical and legally unsupported conclusion that any claim not specifically preserved is implicity barred. Let met again try to clarify. There is absolutely nothing in the bill that suggests that the remedies it provides (action by attorneys general) are exclusive. Simply because the legislation states that private actions are specifically preserved does not mean that all other actions are barred or restricted in any way.

The modification that has drawn criticism even from those consumer groups whose interests I was attempting to advance in my amendment, is the striking of the criminal penalty provisions. This modification was not requested by anyone seeking to avoid accountability. Rather, I sought to strike the criminal penalties because I believe that the criminal sanctions in S. 852 were inappropriate in most instances, and unnecessary in others. As

a general matter, I believe that Congress creates too many federal criminal offenses, when it should leave this task to state law. A violation of this bill, such as a failures to make disclosures about a vehicle's history, generally is not the type of violation for which people should be sent to jail. If the conduct is so egregious that criminal sanctions are warranted, then existing state laws against fraud, theft, and the like are available based on which to prosecute violators.

The change I have just described to S. 852 are not extensive. They are, nevertheless, important and, in my opinion, improve a bill that is needed at this time.●

NORTH AMERICAN WETLANDS CONSERVATION ACT, S. 1677

● Mr. DEWINE. Mr. President, I rise today to offer my strong support for this bill offered by our distinguished colleague from Rhode Island. I want to thank Senator CHAFEE for all the work he has done, and especially his effort to addressing some of the concerns I had about the bill.

The North American Wetlands Conservation Act, or NAWCA, is a blueprint for successful environmental protection—through voluntary cooperation among government agencies, private conservation organizations, and landowners. It is a matching fund which involves state, federal, and private partners in protecting and restoring wetlands across the country.

Mr. President, this is very important for the environment. Wetlands serve a multitude of purposes. Obviously, they provide critical habitat and breeding grounds for migratory birds, fish and aquatic plants. But their benefit goes far beyond wildlife habitat. Wetlands are nature's sponges—absorbing heavy rains and minimizing the damaging effects of floods and erosion. Wetlands are also natural filters, trapping and isolating potentially damaging pollution and improving the quality of our lakes and rivers.

Since 1990, there have been 9 NAWCA projects in Ohio which have protected almost 9,000 acres of critical wetlands. NAWCA has contributed $3.3 million towards these projects—and those funds were matched by $6.9 million from groups such as Ducks Unlimited and Ohio's Division of Wildlife.

Last summer, I was able to visit one of these projects, Metzger Marsh in northwest Ohio. I was impressed, not only with the beauty and diversity of the wildlife at this marsh, but also with the cooperation among government, private agencies, and landowners that protected this area.

While there are several partners working together on this effort, I would like to mention one organization in particular. Ducks Unlimited is a national nonprofit conservation organization with over 18,000 members in Ohio alone. It has contributed over $80 million in matching funds to support NAWCA projects across the country. This is over three times the amount contributed by any other conservation organization. In light of the longstanding commitment of Ducks Unlimited to this project, I believe they should continue to serve on the NAWCA Council—and I would like to thank Senators CHAFEE, KEMPTHORNE, INHOFE and HUTCHISON for insuring that the organization's membership on this council will continue.

Mr. President, this is a very important piece of environmental legislation, and I urge its adoption.●

CONSUMER REPORTING EMPLOYMENT CLARIFICATION ACT OF 1998

(The text of (S. 2561), the Consumer Reporting Employment Clarification Act of 1998, as passed by the Senate on October 6, 1998, is as follows:)

S. 2561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Consumer Reporting Employment Clarification Act of 1998''.

SEC. 2. USE OF CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.

(a) DISCLOSURE TO CONSUMER.—Section 604(b)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(2)) is amended to read as follows:

''(2) DISCLOSURE TO CONSUMER.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

''(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

''(ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.

''(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application—

''(i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under section 615(a)(3); and

''(ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.

''(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

''(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

''(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.''.

(b) CONDITIONS ON USE FOR ADVERSE ACTIONS.—Section 604(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(3)) is amended to read as follows:

''(3) CONDITIONS ON USE FOR ADVERSE ACTIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

''(i) a copy of the report; and

''(ii) a description in writing of the rights of the consumer under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).

''(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—

''(i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates, in lieu of the notices required under subparagraph (A) of this section and under section 615(a), within 3 business days of taking such action, an oral, written or electronic notification—

''(I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;

''(II) of the name, address and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis);

''(III) that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and

''(IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

''(ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer's request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer's rights as prescribed by the Federal Trade Commission under section 609(c)(3).

''(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

''(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

''(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by